

No. 14/13/87-6Lab./329.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s the Engineer-in-chief, Haryana Public Health, Sector-19, Chandigarh *versus* Rikhi Ram.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL  
-CUM-LABOUR COURT, ROHTAK

Reference No. 251/1993

SHRI RIKHI RAM S/O OF SHRI B. R. PARBHAKAR, DISTRICT PRESIDENT, L.M.S.,  
63-C, KAILASH NAGAR, MODEL TOWN, AMBALA CITY .. Workman

*versus*

THE ENGINEER-IN-CHIEF, HARYANA PUBLIC HEALTH, SECTOR-19,  
CHANDIGARH

(2) THE EXECUTIVE ENGINEER, PUBLIC HEALTH DIVISION, SONEPAT

(3) THE EXECUTIVE ENGINEER, MECHANICAL PUBLIC HEALTH DIVISION  
NEAR CANTT. BOARD OFFICER, AMBALA .. Management.

Present :

Shri Inder Mohan, Authorised Representative for the workman.

Shri S. C. Verma, A.D.A. for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—*vide* Labour Department, Endorsement No. ID/43147-54 dated 3rd November, 1993 :—

Whether the termination of services Shri Rikhi Ram is justified and in order? If not, to what relief he is entitled?

2. The workman and the management were summoned. The workman appeared and filed the claim statement that he was employed as Diesel Auto Mechanic (GWT) with respondent No. 3 with effect from 13th March, 1987 to 17th January, 1988 on monthly sanction basis and against from 19th January, 1988 on work charged basis on being sponsored by the Employment Exchange, Ambala; during the year 1989 respondent No. detailed him to respondent No. 2 whereas he continued to work till March, 1993 and was again directed by the latter to report back for duty to Supdt. for works (Mech). P.H., Ambala Cantt. The applicant reported to the said officer for duty who declined to take him on duty saying that his services were no longer required. After his exist. respondent No. 2 promoted a casual mazdoor to act as Diesel Auto Mechanic which fact amply proved that a post still existed with respondent No. 2 in the cadre of the applicant and he had been shunted out just to accommodate a favorite. Before termination of his services, he had not been served with any charge-sheet, show cause notice and no domestic enquiry was conducted against him which showed that his work and conduct during his stay with respondent-department was above the board and there was nothing adverse against him from any quarter. Hence the termination of the applicant is wholly wrong, unjust, illegal, void, wanton, capricious, abnoxious, *mala fide*, against the principles of natural justice and opposed to the provisions of Section 25-F & 25H of the Industrial Disputes Act, 1947. Hence this claim statement was filed that the Court be pleased enough to declare the termination of services of the applicant as void and order his reinstatement into service with full back wages and continued seniority.

3. The written statement is filed by the management that the present claim statement is not maintainable in the present form as the answering respondents are not covered under the definition of the Industrial Disputes Act; the petitioner is estopped from filing the present claim statement on the principle of *res judicata* as the petitioner has filed writ petition No. 4759 of 1989 in the Hon'ble High Court which was dismissed on 17th November, 1992; the petitioner has no locus-standi or any cause of action file the present claim petition this Court; has not jurisdiction to entertain the present petition. The applicant was engaged as daily wager on monthly sanction basis by respondent No. 3 and in that capacity he worked there from 13th March, 1987 to 19th January, 1988. No casual mazdoor was promoted as Auto Diesel Mechanic by the respondent No. 2 after termination of services of the applicant as no longer required as detailed above. No notice was required to be given to the applicant before termination ex per condition of appointment letter issued by the Executive Engineer, Public Health Division, Ambala Cantt. The services of the applicant rightly terminated as no longer required and hence the claim statement be dismissed.

4. Replication was filed by the workman. On the pleadings of the parties, the following were framed :—

- (1) As per terms of reference?
- (2) Whether the respondents/management are not an industry?
- (3) Whether the applicant has estopped to file the present case on the principle of *res judicata*?
- (4) Relief?

5. My findings on the above issues with reason thereof are as under :—

Issue No. 1:

6. The workman had come into witness box as WW-1 and closed the evidence. Shri K. D. Gupta, S.D.E. has been examined by the management as MW-1 and closed the evidence.

7. The workman has made the statement that he was appointed on 13th March, 1987 as Diesel Auto Mechanic on monthly sanction basis and worked upto 17th January, 1988, so he was appointed through interves by Employment Exchange. He was appointed on 19th January, 1988 with respondent No. 3, therefore, he was sent to Ambala, but the respondent No.2 had not accepted him at Ambala and terminated his services. He also made the statement that Om Parkash Helper is junior to him and still working No. Enquiry was made against him. He is still unemployed. The workman admitted that he filed the civil writ petition in the High Court and he got *s tatus quo* from the High Court and he joined the respondent No. 2 on 2nd December, 1989 and he withdraw his petition on 17th November, 1992. He admitted that after his removal none was appointed at his place.

8. Shri K. D. Gupta as MW-1 has made the statement that the workman applicant had worked with effect from 13th March, 1987 to 19th January, 1988 and from 20th January, 1988 to 19th July, 1988. He also made the statement as the applicant had filed writ petition and therefore, he worked upto 30th November, 1989 and after that he was transferred to Sonepat. At Sonepat he worked upto 26th February, 1993. From 2nd December, 1989. He also made the statement that as the applicant has withdrawn his writ petition and after that on the basis of the letter of the S.E. the services of the workman were terminated. He also made the statement that no casual mazdoor was promoted in place of the workman. The applicant was removed as there was no need. He could not say whether Executive Sonepat has transferred him to Ambala. He admitted that in place of workman another person is working but he denied the suggestion that Om Parkash has been promoted in place of workman but he admitted that Om Parkash was promoted while in service.

9. It is proved from the evidence on record as the workman has served the department for more than 240 days in a year and his services were terminated without following the procedure as laid down in Section 25-F of the Industrial Disputes Act. Now the question is whether there was appointed any person where the applicant was occupying before termination or not. Shri K. D. Gupta has admitted that after the termination of the applicant Shri Om Parkash was appointed or promoted at place of the applicant and he also admitted that other person working in the place of applicant at Sonepat and he also admitted that Om Parkash is working at place where the applicant was working. It is proved that when there is post in said department and the applicant who had completed more than 240 days service in 12 calendar months, his services could not be terminated without compliance of Section 25-F of the Industrial Disputes Act. Hence the services of the applicant can be said to be retrenchment but not in accordance with Section 25-F of the Industrial Disputes Act.

10. The learned A. D. A. for the respondent made the submission that as the applicant was served for fixed period and after expiry of fixed period he was removed, so he cannot claim of the said post. The order Ex. M-4 is passed by Executive Engineer, Public Health, Sonepat to Shri. S. L. Batra, Executive Engineer, GI Public Health Division, Sonepat that services of workman Auto Diesel Mechanice who is working on daily wages (monthly sanction) may be utilised in your division as desired. Ex.M6 is the order of the Executive Engineer, Public Health, Sonepat in view of Punjab & Haryana High Court direction received are that his services are no longer required. The appointment letter of the workman/applicant is Ex. M-7. The condition mentioned in para No.3 of the said appointment letter and it mentioned that his services can be terminated at any time without assigning any reason what-so-ever. However, in case you wish to resign from service, you shall have to give 10 days notice in advance. The appointment condition given in para No. 1 and which to the effect that post is purely temporary and on work charged basis and it is not likely to continue beyond 19th July, 1988. Thus, I find from the appointment letter photo copy of which is Ex M-7 appointment of the workman was not for fixed period though for certain period. When he was continued in service after 1988 without giving his specific period of which he was employed his employment can be taken not controlled by any contract, thus his case is not covered under Section 2(oo)(bb) of the Industrial Disputes Act and his case is covered under Section 25-F of the Industrial Disputes Act and 2(oo)(bb) of

the Industrial Disputes Act. As the management has admitted that his services were not terminated after giving him notice or paying him notice pay or trenchment compensation etc as required under Section 25-F of the Industrial Disputes Act. Thus I am of the view that the reference/claim statement filed by the work man is liable to be accepted and I decided this issue in favour of the workman and against the management.

**Issue No. 2 & 3 :**

11. Both these issues are not pressed or argued hence I decide both these issues against the management and in favour of the workman.

**Issue No. 4 (Relief) :**

12. In view of my findings on the above issues I order that the applicant is entitled to the job with continuity of services with full back wages as held in 1981 (3) SCC, 225 (S.C.). The reference is unanswered and returned accordingly. The parties are left to bear their own costs.

P. L. KHANDUJA,

The 2nd February, 1995.

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak.

Endorsement No. ref. 233, ref. No. 251-93, dated the 9th February, 1995.

Forwarded (four copies), to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak

The , 1995

No. 14/13/87-5Lab./343.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Secretary, Haryana State Electricity Board, Sector-6, Panchkula (Ambala) versus Om Parkash.

**IN THE COURT OF SHRI. S. R. BANSAL (ADDITIONAL DISTRICT & SESSIONS JUDGE), PRESIDING OFFICER, LABOUR COURT, AMBALA**

Reference No 257 of 1989

SHRI OM PARKASH, SON OF SHRI RANJIT RAM, VILLAGE DHANI RAMPURA,  
P. O. ARNAYA, TEHSIL THANESAR, DISTRICT KURUKSHETRA .. Workman

versus

(1) SECRETARY, HARYANA STATE ELECTRICITY BOARD, SECTOR-6,  
PANCHKULA (AMBALA)

(2) EXECUTIVE ENGINEER, (OPERATION DIVISION), HARYANA STATE  
ELECTRICITY BOARD, PEHOWA (KURUKSHETRA) .. Management.

*Present :*

Shri P. S. Sharma, for workman.

Shri D. R. Batra, for the management.

**AWARD**

In exercise of the powers conferred by clause (c) of sub section 1 of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Om Parkash and the management (1) Secretary, Haryana State Electricity Board, Sector-6 Panchkula (Ambala) and Executive Engineer (Operation Division) Haryana State Electricity Board, Pehowa (Kurukshetra) to this court for adjudication,—*vide* Haryana Government notification bearing No.31349-354, dated 27th July, 1989 :—

"Whether the termination of the services of Shri Om Parkash is valid and justified ? If not, so, to what relief his he entitled?"

The workman served a demand notice dated 22nd February, 1989 under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same having failed, the appropriate government made the above mentioned referred to this court for adjudication.

On receipt of the reference notices were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim dated 16th November, 1989. It was alleged therein that he was appointed as daily rated worker in Sub-Urban, Sub-Division, Pehowa in October, 1979 and continued as such till 17th August, 1980 when his services were terminated. According to the workman he had rendered more than 240 days of service continuously. There was lot of work in the management and juniors to the workman have been retained. No prior notice was given nor any retrenchment compensation was paid. It was alleged that new persons have been appointed on daily wages basis. The workman, therefore, demanded his reinstatement with continuity of service and back wages.

On the other hand the management pleaded that the workman was kept on daily wages in October, 1979 and he worked for a period of 189 days. He himself left his service of his own accord and never turned up thereafter. There is no question of termination of his services. It was also alleged that he served demand notice after a period of about 5½ years. The reference is, therefore, based on account of delay and laches. Other allegations were denied and a prayer of rejection of the claim was made.

The workman submitted replication dated 25th October, 1990 contesting the allegation of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision,—*vide* order dated 25th October, 1990 :—

- (1) Whether the impugned termination of services of the workman is invalid ? OPW
- (2) Relief.

Parties led evidence. I have heard the representatives of the parties. My issuewise findings are as under :—

#### Issue No. 1 :

Shri Om Parkash, workman appear as WW-1 and stated that he served the management from 1st October, 1979 to 17th August, 1980 when his services were terminated without any prior notice or payment of retrenchment compensation. He also alleged that his juniors namely Shershri Fateh Chand, Sat Pal, Gurnam Singh, Madan Lal, Pardeep Kumar have been retained and new persons have been recruited. During cross-examination he denied a suggestion that he worked for a total period of 189 days and that he himself voluntarily left his job on 17th August, 1980. On the other hand the management pleaded that the workman worked for a total period of 204 days as depicted in certificate Ex. R-1 duly prepared from the muster-roll. This witness also produced Ex. R-2 copy of muster-roll showing that the workman absented after 17th August, 1980. Similarly muster-roll Ex. R-3 relating to the month of September, 1980 shows that the name of the workman was not entered as he remained absent. MW-1 Shri D. S. Sharma stated that no representation was received from the workman till the receipt of demand notice. He also stated that the services of the workman were never terminated. During cross-examination he admitted that one Sat Pal was appointed as casual labour on 16th May, 1990. There is however no evidence on the record to show that said Sat Pal is still in service. Similarly the names of new persons alleged to have been recruited have not been disclosed. Ex. R-1 is the copy of public record which shows that the workman rendered 204 days of service in all. Similarly Ex. R-2 shows that he did not turn up after 17th August, 1980. There is no ground to disbelieve the entries of these two documents. It was held in Karnal Central Cooperative Bank Ltd., Karnal versus Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak-1994 (1) PLR-310 that where a workman has less than 240 days of service it is not necessary for the management comply with the provisions of section 25-K of the Act. Moreover it is quite evident from Ex. R-1, R-2 and R-3 the workmen voluntarily left his job after 17th August, 1980. It was held in Ram Kumar versus State of Punjab-1993 (1) SCT-59 that where a workman has abandoned his job adjustment on the post by transfer or fresh appointment can not be termed as arbitrary and discrimination.

Moreover the workman has served the demand notice after a period of more than five years. The learned representative of the management cited Panipat Cooperative Sugar Mills Ltd. Panipat versus Presiding Officer, Labour Court Ambala and another -1993 (2) PRL 421 ; Punjab State Electricity Board, Patiala versus Presiding Officer, Labour Court, Bathinda & another-1991 (2) SRJ/SCI 1560; Tejinder Singh Sidhu versus State of Punjab and others -1991 RSJ 564. Asha Ram versus State of Haryana 1993 (1)-SCI-11, Sirhind Cooperative Marketing-cum-Processing So. Ltd. versus Presiding Officer, Labour Court, Patiala and others -1991 (3) RSI-491, Prem Singh and others versus Labour Commissioner, Punjab Chandigarh 1994 (1) PLR-354. In all these authoritatives pronouncements the view taken was that if a demand notice have been served after 3 years of dismissal of service no explanation for delay the reference made is illegal and

no relief can be granted to such a workman. The ratio of all these judgments is fully applicable to the facts of the present case and the preposition of law involved stands full answered. It is thus, quite evident that the present reference made by the appropriate government to this court is illegal and no relief can be granted to the workman. The findings on this issue is, therefore, returned against the workman and in favour of the management.

**Relief :**

In the end, it is held that the workman is not entitled to any relief.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 16th January, 1995.

Additional District & Sessions Judge,  
Presiding Officer, Labour Court, Ambala.  
(Camp at Panchkula).

Endorsement No. 110, dated the 25th January, 1995.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District & Sessions Judge,  
Presiding Officer, Labour Court, Ambala.  
(Camp at Panchkula.)

No. 14/13/87-6Lab/374.—In pursuance of the provisions of section 17 of Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s. Transport Commissioner, H. R. Chandigarh versus Ram Parkash.

IN THE COURT OF SHRI S. R. BANSAL (ADDL. DISTT. & SESSIONS JUDGE), PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 301 of 89

SHRI RAM PARKASH, SON OF SHRI BALMUKAND BALI, HOUSE NO. 31/7, RAM PARTAP NAGAR, AMBALA ... Workman.

versus

(1) THE TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH,  
(2) GENERAL MANAGER, HARYANA ROADWAYS, AMBALA. ... Management.

Present :

WR. Shri Jasmer Chand.

MR. Shri Rattan Singh, ADA.

AWARD

In exercise of the powers conferred by clause (c) of sub-section 1 of section 10 of Industrial Disputes Act, 1947 (for short called as 'the Act'), the Governor of Haryana referred the following dispute between the workman Shri Ram Parkash and the management (1) Transport Commissioner, Haryana Chandigarh and (2) General Manager, Haryana Roadways, Ambala to this court for adjudication,—*vide* Haryana Government Notification bearing No. 33892—898, dated 8th August, 1989 :—

Whether the termination of the services of Shri Ram Parkash, Driver is justified and valid ? If not so, to what relief is he entitled ?

The workman raised an industrial dispute by serving a demand notice dated 10th May, 1989 under section 2-A of the Act. The conciliation proceedings were taken up by Labour Officer-cum-Conciliation Officer. The same did not yield any positive result and the Labour Officer-cum-Conciliation Officer submitted a failure report thereby necessitating the making of the present reference by the appropriate Government.

On receipt of the reference the workman appeared and submitted his statement of claim dated 7th December, 1989. The admitted position of the record is that the applicant was appointed as driver on 13th May, 1967 and continuously served the department when,—*vide* order dated 13th April, 1987 he was ordered to be retired from service w. e. f. 30th April, 1982 under rule 5.18 of Civil Service Rules, Volume-II as he had been declared unfit to drive the heavy vehicle. According to the applicant after, he was declared medically unfit the doctor had recommended him for discharge of light duties and he performed the duties of Adda Incharge, Baldev Nagar Camp, Ambala till April, 1987. Thereafter a medical board was constituted the workman was declared unfit to drive the vehicle and was compulsarily retired without complying with the provisions of section 25-F of the Act although similarly situated other persons are still working in the department. The workman therefore demanded his reinstatement with continuity of service and back wages.

The management pleaded that the applicant was retired under rule 5.18 of Civil Service Rules, Vol-II as he was declared medically unfit to drive vehicles and therefore section 25-F of the Act is not applicable in the present case.

The workman submitted replication controverting the allegations of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision :—

- (1) Whether the impugned termination of services of the workman is invalid ? OPW
- (2) Relief.

The parties were permitted to lead evidence by way of affidavits and documents. The workman submitted his own affidavit Ex-W-1, copy of the order dated 8th March, 1985, Ex. W-2 copy of impugned order Ex. W-3 and copy of order of Hon'ble High Court January 31, 1989,—*vide* which the writ petition he was allowed to be withdrawn and he was permitted to move the Labour Court. Ex R-1 is the affidavit of General Manager, Haryana Roadways, Ambala. Ex. R-2 is the copy of report of Chief Medical Officer, Ambala dated 10th February, 1987. Ex. R-3 is the copy of impugned order and Ex. W-5 is the counter-affidavit of workman.

I have heard the representatives of the parties. My issueswise findings are as under :—

#### Issue No. 1 :

The facts are not disputed in this case. It is an admitted fact that the workman was retired under rule 5.18 of Civil Service Rules, Volume-II as he was declared unfit to drive the vehicle. Lt. representative of the workman has cited *Mam Raj versus The State of Haryana*-190 (2)-RSJ-332 wherein it was held as follows :—

Constitution of India, Articles 226/227 and 311-Industrial Disputes Act, 1947, Section 25-F-Retirement on ground of defective vision-Petitioner driver of Roadways-Order challenged on ground on non-compliance of Section 25-F and for not holding enquiry under Article 311. Driver has to perform duty which effects safety of passenger Not appropriate to reinstate him-Back wages to be paid-Petitioner to be accommodated on some other post carrying same emoluments.

In this reported case the petitioner who was working as driver was retired on the medical ground that he was found medically unfit for the post of driver due to defect in vision. The Hon'ble High Court allowed his writ petition and directed the management to pay all back wages to him and further directed them to accommodate him on some other post carrying the same emoluments. This authority applies for all the four corners to the facts of the present case. I, therefore, direct the management to give some other suitable job to the workman carrying the same emoluments. Under the circumstances of the case the workman will also be entitled to back wages to the extent of 50 per cent from the date of his serving the demand notice. The finding on this issue is, therefore, returned in this manner.

#### Relief :

In the end, the reference shall stand answered in the above mentioned terms accordingly.

S. R. BANSAL,

The 8th February, 1995.

Addl. Distt. & Sessions Judge,  
Presiding Officer, Labour Court,  
Ambala.

Endorsement No. 182, dated the 22nd February, 1995

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Addl. Distt. & Session Judge,  
Presiding Officer, Labour Court, Ambala.

The 20th March, 1995

No. 14/13/87-6 Lab./394.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad, in respect of the dispute between the workman and the management of M/s. The Manager, Bumpy Shoes Company Pvt. Ltd., Faridabad *versus* Hari Narayan.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Ref. No. 117/93

**IN THE MATTER OF INDUSTRIAL DISPUTE**

*between*

SHRI HARI NARAYAN C/O SHRI M. L. GAUTAM, ADVOCATE, HOUSE NO. 486, SECTOR 23,  
FARIDABAD

*and*

M/S. THE MANAGER, BUMPY SHOES COMPANY PVT. LTD., PLOT NO. 27, SECTOR 24,  
FARIDABAD.

*Present:*

Shri R. C. Sharma, A.R. for the Management.

Workman, *Ex-Parte*.

**AWARD**

Under the provisions of section 10(1)(c) of Industrial Disputes Act, 1947, the Government of Haryana have,—*vide* Endst. No. ID/FD/20965—70, dated 16th June, 1993, referred the following dispute between the parties above named for adjudication:—

“Whether the termination of services of Shri Hari Narayan is legal and justified? If not, to what relief he is entitled?”

2. The case of the workman is that he had been working as Security Guard with effect from 8th September, 1991 with the Management and his last drawn wages were Rs. 800/- p.m. His work and conduct had always been satisfactory but the Management terminated his services on 6th March, 1993 without assigning any reason and without paying him any service benefit or compensation. It is on these facts that the workman has claimed his reinstatement with continuity of service and full back wages.

3. The stand taken by the Management in its written statement, is that the workman had never been in its employment and, therefore, claim filed by him is totally false.

4. In the rejoinder, pleas taken in the demand notice have been reiterated while those in the written statement controverted.

5. On the pleadings of the parties following issues were laid down for adjudication:—

- (1) Whether there is relationship of employer and employee between the parties ? OPW
- (2) As per reference, OPM
- (3) Relief.

6. On 21st February, 1995, Shri M. L. Gautam, A.R., for the workman stated it at the bar that he no longer represented the workman and on that account the workman was proceeded *ex parte*. The Management was thereafter called upon to lead its evidence.

7. I have heard A.R. for the Management and perused facts on record. My findings on each of the issues with reasons therefor are as under:—

**Issue No. 1:**

8. M. K. Pathak examined as MW-1 stated that the name of the workman Hari Narayan did not figure in the attendance register and Payment Registers from 1990 to 1994 in respect of all the workers. Chowkidars and clerks because this workman was never an employee of the Management. No evidence oral or documentary has been led by the workman to prove his contention. So holding that there did not exist relationship of employer and employee between the parties. this issue is decided against the workman and in favour of the Management.

**Issue No. 2 & 3:**

9. In view of findings returned under issue No. 1 that the workman had not been in the employment of the Management, there does not arise the question of termination of the services of the workman by the Management. As such, he is not entitled to any relief. No claim award is, therefore, passed.

N. L. PRUTHI,

The 7th March, 1995.

Presiding Officer,  
Industrial Tribunal/Labour Court-I,  
Faridabad.

Endst. No. 500, dated 8th March, 1995

A copy with three spare copies is forwarded to the Commissioner and Secretary to the Government, Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,  
Industrial Tribunal,  
Labour Court-I, Faridabad.

The 10th February, 1995

No. 14/13/87-6 Lab./396.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal cum Labour Court-II, Faridabad, in respect of the dispute between the workman and the management of M/s. Parja Mechanical (P) Ltd., Ballabgarh *versus* Ramji Parsad.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II,  
FARIDABAD

Ref. No. 153/92

*between*

THE MANAGEMENT OF M/S. PARJA MECHANICAL (P) LTD., PLOT NO. 132, SECTOR 25,  
BALLABGARH

*versus*

THE WORKMAN NAMELY SHRI RAMJI PARSAD, SON OF SHRI JUGUT PARSAD  
C/O A.I.T.U.C. OFFICE, MARKET NO. 1, N.I.T., FARIDABAD

**Present :**

None for the workman.

Shri K. P. Aggarwal, for the management.

**AWARD**

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), the Governor of Haryana referred the following dispute between

the parties mentioned above, to this court for adjudication,—*vide* Haryana Government Endorsement No. 10089—94, dated the 24th February, 1992:—

Whether the termination of services of Shri Ramji Parsad is legal and justified ? If not, to what relief, is he entitled to ?

2. The case of the workman is that he had been in the employment of the management with effect from 27th August, 1990 to 11th October, 1991 and his last drawn wages were Rs. 903 p.m. His services were terminated on 12th October, 1991 without any reason or prior notice. He is thus, entitled to be reinstated into service with full back wages and continuity in service.

3. The management submitted written statement stating therein that the workman had worked as purely casual worker for 48½ days from 10th August, 1991 to 2nd September, 1991 and from 6th September, 1991 to 8th October, 1991 and was paid the wages for this period. The management was not required to give notice pay or retrenchment compensation to the workman as envisaged under section 25-F of the Act. The workman is thus, not entitled to any relief.

4. The workman submitted rejoinder dated 19th April, 1993, re-asserting previous averments and denying the averments of the management.

5. On the pleadings of the parties, the following issue was framed:—

(1) Whether the termination of services of Shri Ramji Parsad is legal and justified ? If not, to what relief, is he entitled to ? (as per terms of reference).

6. The management led evidence. The workman failed to adduce evidence despite the facts that several opportunities were granted to him for the purpose. On 31st October, 1994 the case was fixed up for settlement but none appeared for the workman. It was, thus, ordered that the workman may be proceeded against *ex parte*.

7. I have heard the authorised representative of the management and have also gone through the evidence on record. My findings on the aforesaid issue are as under:—

#### Issue No. 1:

8. Two witnesses have been examined by the management. MW-1 Gulshan Kapoor deposed that voucher Ex. M-1 and Ex. M-2 were prepared by him and the workman was paid the amount as mentioned in these vouchers. The workman had also put signatures on these vouchers in his presence accepting the contents of the vouchers to be correct. MW-2 Anil Ahuja deposed that the workman had worked with them with effect from 10th August, 1991 to 2nd September, 1991 and from 3rd September, 1991 to 8th October, 1991 as casual helper and he was paid wages as per vouchers Ex. M-1 and Ex. M-2. He further stated that Gandhi Yadav, Tarkeshwar and Jamadar Rai were also employed by them as casual helpers and then their services were terminated. They had made applications before the Labour Department and the same were dismissed,—*vide* orders Ex. M-3 to Ex. M-5. He also placed on record copies of attendance registers, Ex. M-6 to Ex. M-8 prepared by him in addition to these documents. He produced a copy of the reply Ex. M-9 given by the management to the demand notice of the workman and report of the Labour Officer Ex. M-10.

9. It is clear from the position mentioned above that the workman had not rendered service for a continuous period of 240 days prior to the termination of his services. It was held by our own Hon'ble High Court in the case of The Punjab State Co-op. Supplies and Marketing Federation Ltd., Chandigarh, *versus* Shri Kartar Singh and another 1994, LLR 209 that unless a workman proves that he has worked under the management for 240 days he is not entitled to any relief under section 25-F of the Act. Consequently, it is held that termination of services of the workman is legal and justified. Consequently, the workman is not entitled to any relief. The award is passed accordingly.

U. B. KHANDUJA,

The 3rd February, 1992.

Presiding Officer,  
Labour Court-II,  
Faridabad.

Endorsement No. 214, dated the 10th February, 1995.

A copy, with three spare copies, is forwarded to the Financial Commissioner and Secretary to the Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,  
Labour Court-II,  
Faridabad.